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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Matthew G. Fishler et al.
Serial No.: 09/976,603
Filed: 10/09/2001
Docket No.: 98P1008US02
For: System and Method of Generating an Optimal Three-Step Defibrillation Waveform for Use in an Implantable Cardioverter/Defibrillator (ICD)

Examiner: K. Schaetzle
Art Unit: 3762

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TERMINAL DISCLAIMER UNDER 37 CFR 1.321(c)

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February 20, 2004

Estella Pineiro
Estella Pineiro Date

Sir:

I, Ronald S. Tamura, represent that I am a patent attorney of record for this invention.

The extent of interest in this invention for which this disclaimer is being made is in the whole of this invention.

This invention is assigned to Pacesetter, Inc. of Sylmar, California. The assignment was recorded on reel 012274, frame 0492.

Pacesetter, Inc. hereby disclaims the terminal part of any patent granted on the above-captioned application, which would extend beyond the expiration date of the full statutory period of a United States Patent maturing from pending application Serial No. 09/976,514, filed on October 9, 2001, as presently shortened by any terminal disclaimer, and hereby agrees that any patent so granted on the above-captioned application shall be enforceable only for and during such period that the legal title to

said patent shall be the same as the legal title to any patent granted from pending application Serial No. 09/976,514, this agreement to run with any patent granted on the above-captioned application and to be binding upon the grantor, its successors or assigns.

Pacesetter, Inc. does not disclaim any terminal part of any patent granted on the above-captioned application prior to the expiration date of the full statutory term of any patent granted from pending application Serial No. 09/976,514, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321(a), has all claims canceled by a reexamination certificate, or is otherwise terminated prior to expiration of its statutory term as presently shortened by any terminal disclaimer.

Any patent granted on this application or any patent subject to the reexamination proceeding shall be enforceable only for and during such period that said patent is commonly owned with any patent granted from pending application Serial No. 09/976,514 which formed the basis for the double patenting rejection in the present application.

Any fees which are required in connection with this communication are authorized to be charged to PACESETTER, INC.'s Deposit Account No. 16-0068. Any overpayments are also authorized to be credited to this account.

Respectfully submitted,

Date: 2/20/04

Ronald S. Tamura
Ronald S. Tamura
Registration No. 43,179